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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 6, 2002

APPLICATION OF

COLUMBIA GAS OF VIRGINIA, INC.

CASE NO. PUE-2001-00587

For Approval of a Retail Supply
Choice Plan as Authorized by
§ 56-235.8 of the Code of Virginia

Phase I

To Change Rates, Charges, Rules,
and Regulations

Phase II

ORDER

Before the Commission is Columbia Gas of Virginia, Inc.'s ("Columbia" or "Company"), retail supply choice plan filed on January 2, 2002, pursuant to § 56-235.8 A of the Code of Virginia ("Code"). Columbia also proposed in the same application changes in rates, charges, rules, and regulations and new services. For the reasons explained in this Order, the Commission will consider the retail supply choice plan in Phase I of this proceeding. The Commission is mindful that, as provided by § 56-235.8 B of the Code, we need to approve, disapprove, or modify Columbia's retail supply choice plan by July 1, 2002. While several matters touching on the retail supply choice plan will be discussed generally in this Order, the Commission will address the plan in detail on or before

Effective April 9, 2002, the new Case Management System requires that the case number format for all Commission orders change from, e.g., PUE010663 to the following: PUE-2001-00663.

July 1.

In Phase II of this proceeding, the Commission will consider Columbia's proposed tariff revisions and proposed new services that are not within the scope of a retail supply choice plan proposed pursuant to § 56-235.8 of the Code. These proposed tariff revisions and new services affect primarily large gas and transportation service customers. Columbia's proposals also include revision of its purchased gas adjustment ("PGA") clause. Columbia also seeks a waiver of the Commission's *Rule governing utility customer deposit requirements*, 20 VAC 5-10-20, which limits deposits to the equivalent of the customer's estimated liability for two months usage. The Company seeks a waiver to change risk-based deposits for certain services. We will consider this waiver request in Phase II as well. Columbia's rate schedules and general terms and conditions under review in Phase II are listed in ordering paragraph (1) of this Order.

As authorized by our previous orders in this proceeding, several interested persons filed comments and requests for hearing on Columbia's proposed revisions to transportation services and other services.¹ The Office of the Attorney General, Division of Consumer Counsel filed comments on the

¹ In addition to commenting and requesting a hearing, Stand Energy Corporation and the Virginia Industrial Gas Users Association have moved for bifurcation or severing of issues for separate consideration.

proposed PGA revisions. Upon consideration of the comments and the requests for a hearing, the Commission finds that a hearing should be held on the proposed tariff revisions, which we designate and will consider as Phase II in this Order.

As provided by §§ 56-235, 56-237 and 56-240 of the Code, the proposed revised rates, charges, rules, and regulations and the proposed new services may take effect on July 1, 2002, subject to the power of the Commission to fix and order substituted rates, charges, rules, and regulations and to order credits and refunds. We will direct Columbia to collect and retain all records and other information required to apply the rates, charges, rules and regulations, including the PGA, in effect on June 30, 2002, to all services rendered on and after July 1, 2002, in the event a refund with interest is ordered. We will also assign this matter to a hearing examiner and establish a procedural schedule.

Several comments, the Staff's Motion for Extension of Dates for Filing Reports of April 4, 2002, Columbia's response to the Staff's motion of April 4, and other pleadings identified the scope of a retail supply choice plan filed pursuant to § 56-235.8 of the Code as an issue. With reference to this proceeding, the issue may be stated in these terms: which tariff revisions filed by Columbia on January 2, 2002, will take effect as provided by § 56-235.8 B of the Code and be considered in

Phase I and which proposed revisions will take effect and be considered in Phase II under the general body of law, e.g., Article 2 (§ 56-234 et seq.) of Chapter 10 and related provisions of Title 56 of the Code and the decisions of the Commission and the Supreme Court?

Our analysis must begin with the language of § 56-235.8 A, which provides that "each public utility authorized to furnish natural gas service in Virginia (gas utility) is authorized to offer to all of the gas utility's customers not eligible for transportation service under tariffs in effect on the effective date of this section, direct access to gas suppliers (retail supply choice)" This provision took effect on July 1, 1999. Columbia's filing of January 2, 2002, clearly includes the elements of a retail supply choice plan identified in § 56-235.8 A 1-7 of the Code. In Phase I of this proceeding, the Commission will adhere to the procedures and standards set out in § 56-235.8 A through E of the Code in considering Columbia's retail supply choice plan for customers that were not eligible for tariffed transportation services on July 1, 1999.

The Company's filing of January 2, 2002, also contains numerous proposed revisions affecting customers that were eligible for transportation service under Columbia's tariffs in effect on July 1, 1999. The Commission cannot extend the procedures and standards of § 56-235.8 of the Code to these

proposed revisions to existing services or proposed new services. Proposed revisions to services now offered and the new proposed services, which are beyond the scope of § 56-235.8 of the Code, are designated for investigation in Phase II of this proceeding. The Phase II investigation and hearing will proceed under the general body of ratemaking law for local gas distribution companies.

Likewise, our promulgation of the Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10 et seq. ("Retail Access Rules"), cannot expand the scope of a retail supply choice plan under § 56-235.8 of the Code. Some Retail Access Rules provisions apply to local gas distribution companies offering retail supply choice plans under § 56-235.8 A and licensed gas suppliers who participate in the plans. Our rules, however, can only implement the statute as enacted.²

Columbia has opposed bifurcation of this proceeding. In its application, supporting testimony filed on March 5, 2002, and subsequent pleadings, Columbia has described the interrelationship between its retail supply choice plan and revisions to Rate Schedule TS1/TS2, Transportation Service 1 and

² The applicability of a proposed tariff revision or availability of a new service to a gas supplier which is licensed under § 56-235.8 F does not automatically result in application of subsections A through E of that section. Only if the proposal is integral to offering a choice of suppliers to customers not previously eligible for transportation service, will it be within the scope of § 56-235.8 of the Code.

2, Rate Schedule LVTs, Large Volume Transportation Service and new rate schedules: Rate Schedule AS, Aggregation Service, Rate Schedule GPLS, Gas Parking and Lending Service, and Rate Schedule TS3/TS4, Transportation Service 3 and 4. According to Columbia, numerous changes to proposed tariffs, rates, and terms and conditions are inextricably intertwined with retail supply choice issues and are issues that, without resolution, will make it very difficult if not impossible for the Company to move forward with its retail supply choice plan. The Company also has explained that the vast majority of its revisions and new schedules are intended to conform those schedules and agreements to the Commission's Retail Access Rules, consistent with Commission precedent. Moreover, Columbia states that the Commission previously applied the Retail Access Rules to large commercial and industrial customers.

We are not unmindful of Columbia's concerns in this regard. While we have chosen to limit Phase I of this proceeding to those proposals that fall squarely under § 56-235.8 and, thus, to which we must apply a separate set of standards and procedures, we recognize the potential interrelationship between matters in Phases I and II of this case as discussed by the Company. Accordingly, we have established herein a procedural schedule for Phase II that will facilitate a resolution of Phase II issues as soon as practicable. We also note that a retail

supply choice plan will be approved by July 1, 2002, and the Phase II tariff provisions also will take effect as proposed on July 1, 2002 (subject to later modification and refund as provided by §§ 56-235 and 56-240 of the Code). In addition, schedules or agreements that need to be conformed to the Retail Access Rules may be addressed in Phases I and II of this case, as appropriate.

As noted previously, a number of interested persons filed comments and requests for hearing on the various proposed tariff revisions not part of a retail supply choice plan as defined in § 56-235.8. For purposes of Phase II of this proceeding, we will treat these comments and requests filed by interested persons or groups as notices of intent to participate as a respondent in Phase II. The Office of the Attorney General, Division of Consumer Counsel also filed comments, and the Commission welcomes its participation in this proceeding.

Finally, the Company has requested the Commission to direct its Staff to convene a conference, or series of conferences, between the participants in this case to discuss issues that may continue to be in dispute. We support Columbia's suggestion and encourage the participants in this case to discuss potential resolution of issues that may continue to be in dispute in both Phases of this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) As provided by §§ 56-235, 56-237, 56-240 and related provisions of Title 56 of the Code of Virginia, the following proposed revisions to the schedules and general terms and conditions and the following proposed new schedules filed by Columbia on January 2, 2002, and bearing an effective date of July 1, 2002, are effective July 1, 2002, and designated for investigation in Phase II of this proceeding:

Rate Schedule LGS, Large General Service
Rate Schedule TS1/TS2, Transportation Service 1 and 2,
Rate Schedule LVTS, Large Volume Transportation Service
Rate Schedule LVEDTS, Large Volume Economic Development
Transportation Service
Rate Schedule SAS, Special Agency Service
Rate Schedule LSS, Limited Sales Service
Rate Schedule DES, Distributor Exchange Service
Experimental Natural Gas Vehicle Service
Rate GPLS, Gas Parking and Lending Service
Rate Schedule AS, Aggregation Service
Rate Schedule TS3/TS4, Transportation Service 3 and 4
Form of Service Agreement for Large General Service
Form of Service Agreement for TS-1 and TS-2 Gas
Transportation
Form of Service Agreement for Gas TS-1 and TS-2
Transportation Service (sic)
Form of Service Agreement for TS-3 and TS-4 Gas
Transportation Service
Aggregation Service Service (sic) Agreement
Industrial/Commercial Competitive Service Provider
Coordination Agreement
General Terms and Conditions 7.1, Rate Schedules Other
than RS, RTS, MPS, UGLS, UGLTS, PDS, SGTS, ACS, AND
ACTS
General Terms and Conditions 17.5, Computation of
Banking and Balancing PGA
General Terms and Conditions 17.6, Actual Cost
Adjustment
General Terms and Conditions 17.7, Gas Cost Incentive
Mechanism
General Terms and Conditions 17.8, Capacity Release.

Request for waiver of the Commission's *Rule governing utility customer deposit requirements*, 20 VAC 5-10-20 (Company Application, Attachment E-Request for Waivers at 6).

(2) On or before June 17, 2002, Columbia shall file with the Commission's Division of Energy Regulation appropriate replacement tariff sheets showing all changes or new services for all schedules, forms, and general terms and conditions listed in ordering paragraph (1). The following caption shall appear at the foot of each sheet showing any change or new service: "Effective July 1, 2002, subject to investigation and modification by the Virginia State Corporation Commission in Case No. PUE-2001-00587, Phase II." Columbia shall serve copies of these replacement tariff sheets on all parties.

(3) As provided by § 56-235.8 and related provisions of Title 56 of the Code of Virginia, all other proposed revisions related to a retail supply choice plan filed by Columbia on January 2, 2002, and bearing an effective date of July 1, 2002, be considered in Phase I of this proceeding.

(4) Until further order of the Commission, Columbia shall collect and retain all records and other information required to apply the rates, charges, rules and regulations, including the PGA, in effect on June 30, 2002, to all services rendered on and after July 1, 2002.

(5) The motions of Stand Energy Corporation and the Virginia Industrial Gas Users Association for bifurcation or

severing of issues and for a hearing and the motion of MeadWestvaco Corporation for a hearing are granted to the extent provided for in this Order and are otherwise denied.

(6) A public hearing be held on September 4, 2002, at 10:00 a.m. in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive comments from members of the public and to receive evidence on the tariff revisions designated in Phase II.

(7) As provided by § 12.1-31 of the Code of Virginia and the Commission's Rules of Practice, 5 VAC 5-20-120, *Procedure before hearing examiners*, a hearing examiner be appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

(8) On or before June 21, 2002, Columbia shall file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, an original and fifteen (15) copies of any additional testimony and exhibits by which it expects to establish its case in Phase II of this proceeding and shall serve a copy on counsel to respondents and on the Office of the Attorney General, Division of Consumer Counsel.

(9) The following interested persons and groups shall be respondents in Phase II of this proceeding: Virginia Industrial Gas Users Association, Stand Energy Corporation, MeadWestvaco

Corporation, Tractebel North America, Donald S. Wheeler, America's Energy Alliance, Inc., Washington Gas Energy Services, Inc., Dominion Retail, Inc., and Pepco Energy Services, Inc.

(10) On or before June 21, 2002, any person not listed in paragraph (8) who expects to participate as a respondent in Phase II of this proceeding shall file with the Clerk at the address set out in ordering paragraph (7) an original and fifteen (15) copies of a notice of participation as a respondent, as required by the Rules of Practice, 5 VAC 5-20-80 B, *Participation as a respondent*, and shall serve a copy on counsel to Columbia, Mark C. Darrell, General Counsel, Columbia Gas of Virginia, Inc., 9001 Arboretum Parkway, Richmond, Virginia 23236-3488, and on Commission Staff counsel assigned to the matter, Wayne N. Smith, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218-1197. The notice of participation shall be filed and served as required by the Rules of Practice, 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-150, *Copies and format*. Any organization, corporation, or government entity participating as a respondent must be represented by counsel as required by the Rules of Practice, 5 VAC 5-20-30, *Counsel*.

(11) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order, a copy of the application,

and all materials filed with the Commission, unless these materials have already been provided to the respondent.

(12) On or before July 15, 2002, each respondent shall file with the Clerk an original and fifteen (15) copies of the testimony and exhibits by which it expects to establish its case in Phase II of this proceeding and shall serve a copy of the testimony and exhibits on counsel to Columbia and on all other parties. The respondents shall comply with the Rules of Practice, 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*.

(13) The Commission Staff shall investigate Phase II of Columbia's application. On or before July 29, 2002, the Staff shall file with the Clerk the testimony and exhibits that it intends to present at the hearing and copies of any workpapers that support the recommendations made in its testimony. Copies of the testimony and exhibits shall be served on all parties.

(14) On or before August 19, 2002, the Company may file with the Clerk an original and fifteen (15) copies of all testimony and exhibits that it expects to offer in rebuttal to testimony and exhibits of the respondents and the Commission Staff and shall serve one copy on all parties.

(15) The Rules of Practice, 5 VAC 5-20-260, *Interrogatories to parties or requests for production of*

documents and things, shall be modified for this proceeding as follows: (i) answers and objections shall be served within twelve (12) days after receipt of interrogatories, counting weekends and holidays; (ii) motions on the validity of any objections raised shall be filed within four (4) business days of receipt of the objection; and (iii) answers, objections, and motions on the validity of objections shall be served by 3:00 p.m. on the date due, unless the Staff or party upon whom service must be made agrees in advance to other arrangements.